



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

Zenith Insurance Co

MFDR Tracking Number

M4-18-0326-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

October 10, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Memorial Compounding is request a Medical Dispute Resolution because an insurance carrier cannot extend or delay payment pending additional information in accordance with Rule 133.240(a)."

Amount in Dispute: \$726.61

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "On November 21, 2017, Zenith issued a Notice of Dispute Issue(s) And Refusal to Pay Benefits (DWC Form PLN-11)... Zenith is requesting that the provider's MDR be abated, pursuant to §133.370(f)(3)(C), until the extent of injury issue has been resolved."

Response Submitted by: Zenith Insurance Company/ZNAT Insurance Company P.O. Box 1558 Sarasota, FL 34230-1558

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 17, 2017	Meloxicam Tabs 15mg	\$726.61	\$173.58

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §133.210 sets out the requirements of documentation.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - DP2 XX All Zenith Pharmacy Bills should be submitted by the dispensing pharmacy to TMESYS using one of the methods outlined below

Issues

1. Did Zenith raise a new defense pursuant to 28 Texas Administrative Code §133.307?
2. Are the insurance carrier's reasons for denial or reduction of payment supported?
3. What is the rule applicable to reimbursement?
4. Is the requestor entitled to additional reimbursement?

Findings

1. In its position statement, Zenith Insurance Co argued, "On November 21, 2017, Zenith issued a Notice of Dispute Issue(s) And Refusal to Pay Benefits (DWC Form PLN-11)... Zenith is requesting that the provider's MDR be abated, pursuant to §133.307(f)(3)(C), until the extent of injury issue has been resolved."

28 Texas Administrative Code §133.307(d)(2)(F) states, in relevant part, "The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review."

Review of the submitted documentation finds that Zenith failed to present a Extent of Injury denial to Memorial Compounding Pharmacy in accordance with 28 Texas Administrative Code §133.240 prior to the date the request for medical fee dispute resolution (MFDR) was filed. The division concludes that this defense presented in Zenith's position statement shall not be considered for review because this assertion constitutes a new defense pursuant to 28 Texas Administrative Code §133.307(d)(2)(F).

2. Memorial is seeking reimbursement of \$193.16 for Meloxicam, dispensed on January 17, 2017. Znat Insurance Company (Znat) denied the disputed services with claim adjustment reason code DP2 XX- "All Zenith pharmacy bills should be submitted by the dispensing pharmacy to TMESYS using one of the methods outlined below." The explanations of benefits also stated, "CHARGES DENIED. DISPENSING PHARMACY IS EITHER IN ZENITH'S PBM AND REQUIRED TO BILL THROUGH THE PBM OR DOES NOT PARTICIPATE IN THE PBM. PBM PARTICIPATING PHARMACIES MUST SUBMIT ALL BILLS TO ZENITH'S PBM TMESYS."

28 Texas Administrative Code §133.210(e) states, "It is the insurance carrier's obligation to furnish its agents with any documentation necessary for the resolution of a medical bill. The Division considers any medical billing information or documentation possessed by one entity to be simultaneously possessed by the other." Therefore, the division concludes that Znat's reason for denial of payment is not supported. Reimbursement will be reviewed in accordance with applicable fee guidelines.

3. 28 Texas Administrative Code 134.503 (c) states in pertinent part,

The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:

(1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:

(A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;

(B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;

Date of Service	Name of Drug	NDC	Units	AWP	Billed Amount	Allowable
January 17, 2017	Meloxicam 15 mg	29300012510 Generic	28	\$173.58	\$193.16	\$173.58

4. The allowable reimbursement is \$173.58. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$173.58.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$173.58, plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this order.

Authorized Signature

_____	_____	December 29, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.